

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

MANUEL HERNANDEZ,

Defendant and Appellant.

E060549

(Super.Ct.No. INF1201165)

OPINION

APPEAL from the Superior Court of Riverside County. James S. Hawkins, Judge.

Affirmed.

Patricia M. Ihara, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

I

INTRODUCTION

An information charged defendant and appellant Manuel Hernandez with three counts of oral copulation on a person 10 years of age or younger under Penal Code¹ section 288.7, subdivision (b); and three counts of lewd acts under section 288. There were two victims, Jane Doe 1 and Jane Doe 2.

Over defense objections, the trial court ruled that (1) the videotapes of Jane Doe 1 and Jane Doe 2's forensic interviews; (2) evidence of Jane Doe 1's initial disclosure; and (3) defendant's prior uncharged conviction for unlawful sex with a minor, were admissible under Evidence Code section 1108.

Thereafter, prior to voir dire, pursuant to a written plea agreement, defendant pled guilty to one count of section 288.7, subdivision (b), involving Jane Doe 1. The parties stipulated to a 15-years-to-life sentence. The remaining counts were dismissed. At the sentencing hearing, the trial court imposed the stipulated sentence of 15 years to life.

Defendant filed a timely notice of appeal and requested a certificate of probable cause; the trial court denied defendant's request.

¹ All statutory references are to the Penal Code unless otherwise specified.

II

STATEMENT OF FACTS

A. Background Facts From the Preliminary Hearing²

In 2010, Denise L. had three daughters: four-year-old Jane Doe 1 and twins who were three years old. She lived with defendant and his three sons between January 2010 and May 2010.

B. Facts From Testimony and Video Presented During Pre-trial Motions

On January 1, 2012, Jane Doe 1 and her twin sisters were living with their father. The 15-year-old daughter of father's girlfriend, G., was eating dinner with them when Jane Doe 1 told her she had a secret and made G. promise Jane Doe 1 not to tell father. Jane Doe 1 told G. that defendant had opened her legs and licked her privates. G. immediately left to tell their father.

Three weeks later, Jane Doe 1 told the child forensic interviewer that defendant licked her privates and showed her his "privacy," which she said was a "weenie." Defendant also tried to get Jane Doe 1 to touch his privates with her mouth but she refused. When asked again, she said she licked it, but then said he had wanted her to do it but she ran out of the room.

² The trial court relied on testimony and video from the victims' forensic interviews presented at the pretrial motions for the factual basis finding. Defendant and the People stipulated that the evidence presented at the preliminary hearing formed the factual basis of the plea. Defense counsel did not join because he did not believe there was a factual basis for defendant's plea.

III

ANALYSIS

After defendant appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case, a summary of the facts, and potential arguable issues, and requesting this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

IV

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RICHLI
J.

We concur:

RAMIREZ
P. J.

KING
J.